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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA, ) NO. 1:19-CR-02032-SMJ-1  
9 Plaintiff, )  
10 v. ) RESPONSE TO DEFENDANT'S  
11 JAMES DEAN CLOUD, ) MOTION FOR UNREDACTED  
12 Defendant. ) DISCOVERY  
13

14  
15 Plaintiff, United States of America, by and through William D. Hyslop, United  
16 States Attorney for the Eastern District of Washington, and Thomas J. Hanlon and  
17 Richard C. Burson, Assistant United States Attorneys, hereby responds to defendant's  
18 Motion to Unredacted Discovery (ECF 130).

19 **I. FACTS**

20 On June 8, 2019, four adults were murdered at 5151 Medicine Valley Road, White  
21 Swan, Washington. One of the homicide victims was identified as C.E.

22 Later that same day, four other adults traveled to the above address for a visit. The  
23 four visiting adults were seated in a Ford pick-up truck. A male, D.O., was the driver of  
24 the truck. One of the adults (T.H.) exited the truck. T.H. was subsequently shot and  
25 killed. According to multiple witnesses, the Defendant approached the Ford truck and  
26 shot D.O. with a rifle. Soon after, a shotgun was fired causing damage to the Ford truck.  
27 The occupants inside of the truck were injured. The occupants of the truck frantically  
28 drove away from the crime scene and called the police.

*Response to Defendant's Motion  
For Unredacted Discovery - 1*

1 After the murders, the Defendant, Donovan Cloud (“Donovan”) and two others  
2 entered C.E.’s truck and fled from 5151 Medicine Valley Road. The truck broke down.  
3 The Defendant and Donovan armed themselves and walked towards a residence. The  
4 Defendant and Donovan were in search of another vehicle. The Defendant and Donovan  
5 approached the residence and saw children. Donovan ultimately held a gun to the head  
6 of a child and demanded keys to a vehicle. The Defendant utilized a firearm and obtained  
7 keys to a vehicle from the property owner. The Defendant and Donovan subsequently  
8 forced the child into the vehicle and fled from the area. The child was able to escape by  
9 leaping out of the vehicle.

10 The Defendant and Donovan attempted to hide from law enforcement. The  
11 Defendant and Donovan successfully obtained support in their efforts to conceal  
12 themselves from law enforcement. Donovan successfully escaped to Oregon where he  
13 was ultimately arrested. The Defendant was arrested in Washington after a vehicular  
14 crash.

15 The Defendant has a lengthy and violent criminal history. As an adult, the  
16 Defendant has the following convictions: Second Degree Burglary (2001); First Degree  
17 Possession of Stolen Property (2004); Second Degree Attempted Burglary (2004);  
18 Second Degree Burglary (2004); Taking Vehicle without Permission (2005); Delivery of  
19 Methamphetamine (2005); Attempted Residential Burglary (2006); Attempt to Elude a  
20 Police Vehicle and Possession of Stolen Vehicle (2008); and Crime on Indian Reservation  
21 - Burglary and Possession of Stolen Firearms (2011). In regards to the last conviction,  
22 the Defendant was sentenced to 120 months imprisonment. On or about September 1,  
23 2016, he was resentenced and released from confinement. He subsequently violated  
24 terms of supervised release and was sentenced to an additional three months in jail. The  
25 Defendant’s supervised release was terminated. According to law enforcement records,  
26 the Defendant is associated/involved with a street gang.

27 Donovan Cloud also has a lengthy and violent criminal history. As an adult,

Donovan has the following convictions: Fourth Degree Assault (2005); Harassment (2005); Fourth Degree Assault (2006); First Degree Assault with Deadly Weapon/Force (2007); First Degree Robbery, Theft of Firearm, Attempt to Elude Police Vehicle, and Theft of Motor Vehicle (2014). According to Department of Corrections records, the Defendant is a known affiliate of the Bloods, East Side Piru street gang. In the instant case, on July 17, 2019, a superseding Indictment was filed which charges the Defendant with Carjacking, Brandishing of a Firearm During a Crime of Violence, Assault with a Deadly Weapon, and Kidnapping. If convicted at trial, the Defendant is facing a considerable sentence.

Due to the nature of the instant offense as well as the history of the Defendant and Donovan, multiple potential witnesses have advised of being fearful.<sup>1</sup> Both the Defendant and Donovan have already spent a considerable amount of their lives in prison.

In the instant case, the government has provided thousands of pages of discovery. Due to safety considerations, the names of witnesses have been redacted.

## II. ARGUMENT

Pursuant to this Court's Amended Case Management Order, the government is required to disclose the identities of informants to counsel on April 13, 2020. (ECF No. 117). Furthermore, the government is required to provide a witness list on April 20, 2020. (ECF No. 117). The government fully intends to comply with this Court's order.

Here, Defendant moves the Court to order the Government to disclose the names of the cooperating witnesses in this case. (ECF 130). Due to safety considerations, the government opposes such motion.

A defendant is not entitled to a list of government witnesses prior to trial. *United*

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<sup>1</sup> It should be noted that on January 17, 2019, Donovan's brother (George Cloud) was convicted of First Degree Murder in which he murdered a female within the boundaries of the Yakama Nation due to his belief that she had cooperated with law enforcement. 1:17-CR-2053-SAB-1.

1 *States v. Glass*, 421 F.2d 832, 833 (9<sup>th</sup> Cir. 1969); see also *United States v. Sukumolachav*,  
2 610 F.2d 685, 688 (9<sup>th</sup> Cir. 1980). A district court has discretion to grant or deny a  
3 defendant's request for the names of witnesses the government intends to call at trial  
4 where the disclosure of that information may endanger the witnesses. *United States v.*  
5 *Clardy*, 540 F.2d 439, 442 (9<sup>th</sup> Cir. 1976). No statement or report in the possession of  
6 the United States which was made by a Government witness or prospective Government  
7 witness (other than the defendant) shall be the subject of subpoena, discovery, or  
8 inspection until said witness has testified on direct examination in the trial of the case.  
9 18 U.S.C. 3500(a).

10 The government recognizes that pursuant to Local Rule 16, this court encourages  
11 early disclosure by the government of such statements. In the instant case, the  
12 government has provided virtually all known reports which have been prepared in  
13 connection with this case. Here, the Defendant and Donovan have been charged with  
14 multiple violent offenses, including kidnapping a child at gunpoint. Due to safety  
15 considerations, the government has redacted the names of the witnesses and replaced the  
16 name(s) with "witness 1", "witness 2," etc. Here, the government has a very real concern  
17 regarding the safety of potential witnesses. Therefore, the government objects to the  
18 Defendant's request for unredacted discovery.

19  
20  
21 DATED: January 31, 2020

WILLIAM D. HYSLOP  
United States Attorney

22  
23 By: /s/ Thomas J. Hanlon  
THOMAS J. HANLON  
Assistant U.S. Attorney

24  
25 /s/ Richard C. Burson  
RICHARD C. BURSON  
Assistant U.S. Attorney  
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1 I hereby certify that on January 31, 2020, I electronically filed the foregoing with  
2 the Clerk of the Court using the CM/ECF System, which will send notification of such  
3 filing to the following: Lorinda Meier Youngcourt, John Barto McEntire, IV., Jeremy B.  
4 Sporn, and Richard A. Smith.

5 /s/Thomas J. Hanlon  
6 THOMAS J. HANLON  
7 Assistant U.S. Attorney  
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